

**REMARKS**

Claims 1-18 are pending in this application.

By this Amendment, claim 1 is amended to incorporate subject matter from claims 2 and 3, claim 5 is amended to cure an informality, claim 11 is amended to remove a reference numeral, and claim 15 is amended to incorporate subject matter from claim 3. Thus, no new matter is added by this Amendment.

**I. Rejection Under 35 U.S.C. §102(b)**

Claims 1-6, 9 and 12-16 were rejected under 35 U.S.C. §102(b) over U.S. Patent No. 2,845,645 (Wishnefsky). This rejection is respectfully traversed.

Claims 1 and 15 recite that a handle shell part of the toothpaste container together with the handle part of the toothbrush form the surface of the handle.

Wishnefsky discloses a fountain toothbrush comprising a container cover 22 and a toothpaste container 18 having a container body and a dispensing head 19. The dispensing head is screwed into the handle portion 13, and the container cover encloses the whole container body to form a surface of the handle.

While Wishnefsky teaches forming the surface of the handle as one piece, the claims recite a two-part handle surface. Further, the toothpaste container body according to Wishnefsky is an entirely collapsible, squeezable tube made of sheet metal or plastic. In contrast, claims 1, 15 and 16 recite that the handle shell part of the toothpaste container, as a part of the surface of the handle, maintains its form when subjected to loading during teeth cleaning, irrespective of the filling level of the toothpaste container. The handle shell part is more stable than the walls of conventional tubes of toothpaste. Only a part of the toothpaste container, which is different from the handle shell part and is oriented inwardly when inserted into the handle part, is thin-walled and flexible to squeeze out the toothpaste. Thus, the claims are not anticipated by Wishnefsky. Wishnefsky fails to teach or suggest a surface of

the handle that essentially maintains its form when subjected to loading which occurs during teeth cleaning, irrespective of the filling level of the toothpaste container.

For the foregoing reasons, Applicants submit that Wishnefsky fails to anticipate the subject matter of claims 1, 15 and 16, as well as the claims dependent therefrom. Withdrawal of the rejection is thus respectfully requested.

**II. Rejections Under 35 U.S.C. §103(a)**

**A. Wishnefsky in View of Jackson**

Claims 7, 8 and 10 were rejected under 35 U.S.C. §103(a) over Wishnefsky in view of U.S. Patent No. 2,450,002 (Jackson). This rejection is respectfully traversed.

The Office Action alleges that Wishnefsky discloses the features of claims 7, 8 and 10 but fails to disclose a pin/spike to seal the toothpaste container. The Office Action asserts that Jackson cures this deficiency. In particular, the Office Action alleges that Jackson discloses a toothbrush including a pin/spike 17 to seal the toothpaste container when not in use, and that it would have been obvious to one of ordinary skill in the art at the time of the invention to employ a pin/spike on the Wishnefsky toothbrush to seal the toothpaste container when not in use.

However, Jackson discloses a pocket toothbrush having a tubular handle which covers a removable toothpaste container and a cap holding the toothpaste container in place. The toothbrush comprises a pin or spike to seal the toothpaste container when not in use. Since the tubular handle and the cap of Jackson enclose the whole toothpaste container to form the outer surface of the handle, and the toothpaste container does not comprise any handle shell part, Jackson also fails to teach or suggest a surface of the handle that essentially maintains its form when subjected to loading which occurs during teeth cleaning, irrespective of the filling level of the toothpaste container, as recited in claims 1, 15 and 16.

Thus, claims 7, 8 and 10, which depend from claim 1, are allowable for the same reasons discussed above with respect to claim 1.

Furthermore, in view of the fact that the handle according to Jackson comprises an additional cap, the toothbrush is more complex and more expensive to produce and requires a greater outer dimensions to enclose the same quantity of toothpaste as that required by the claimed toothbrush.

For the foregoing reasons, Applicants submit that Wishnefsky and Jackson, whether taken alone or in combination, fail to teach or suggest the subject matter of claim 1, or of claims 7, 8 and 10 dependent therefrom. Withdrawal of the rejection is thus respectfully requested.

**B. Wishnefsky In View of Voigt**

Claims 11, 17 and 18 were rejected under 35 U.S.C. §103(a) over Wishnefsky in view of U.S. Patent No. 5,382,106 (Voigt). This rejection is respectfully traversed.

The Office Action alleges that Wishnefsky discloses the toothbrush of claims 11, 17 and 18 but fails to disclose that the toothbrush container is translucent with the scale. The Office Action alleges that Voigt cures this deficiency.

Voigt discloses a toothbrush with a teeth cleansing substance dispensing system comprising an enlarged handle having a compartment for housing a toothpaste container. The compartment is closed by a removable end cap. Since the enlarged handle, and the end cap enclose the whole toothpaste container to form the outer surface of the handle and the toothpaste container does not comprise any handle shell part, Voigt fails to teach or suggest the subject matter of claim 1, as discussed above.

Claims 11, 17 and 18 depend, directly or indirectly, from claim 1 and are thus allowable for the same reasons as claim 1 discussed above. That is, Wishnefsky and Voigt, whether alone or taken in combination, fail to teach or suggest the subject matter of claim 1,

or claims 11, 17 and 18 dependent therefrom. Reconsideration of the rejection is thus respectfully requested.

**III. Information Disclosure Statement**

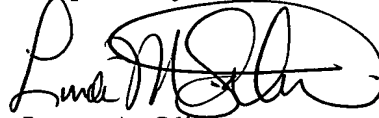
The Examiner is requested to consider the references cited in the IDS filed herewith.

**IV. Conclusion**

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1-18 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



James A. Oliff

Registration No. 27,075

Linda M. Saltiel

Registration No. 51,122

JAO:LMS/eks

**Attachments:**

Petition for Extension of Time  
Information Disclosure Statement

Date: December 10, 2004

**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

<p><b>DEPOSIT ACCOUNT USE</b> <b>AUTHORIZATION</b> Please grant any extension necessary for entry; Charge any fee due to our Deposit Account No. 15-0461</p>
--